

California Regional Water Quality Control Board  
Santa Ana Region

April 19, 2001

ITEM NO. 5

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal Use – Robert and Elvira Lenart, 9746 Manzanita Avenue, Alta Loma, San Bernardino County

DISCUSSION:

On February 9, 2001, ProBuilder contacted staff on behalf of Robert and Elvira Lenart regarding the proposed construction of a second dwelling unit on their lot in Alta Loma. The Lenarts reside in a 4-bedroom 2-bath home located at the site. An existing subsurface disposal system is utilized for the discharge of sanitary wastes from the house. The gross size of the lot is slightly less than one acre (41,280 sq. ft or 0.95 acre net). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of sanitary wastes.

Mr. & Mrs. Lenart propose to demolish an existing horse stable and construct a second dwelling unit on their property. This second dwelling unit ("granny flat") would consist of a kitchen, bedroom and bath for Mr. Lenart's handicapped mother. A new 750-gallon septic tank-subsurface disposal system is proposed for the discharge of sanitary wastes from this second dwelling unit.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum of one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems in groundwaters of the Region.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that, in fairness, it was necessary to distinguish between "existing" developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSRs were adopted), and "new" developments. The Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to "new" developments. Mr. & Mrs. Lenart's residence was constructed in 1980.

Board also recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSRs address these circumstances. The MLSRs distinguish between the types of additions to existing dwelling units. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSRs.

However, the MLSRs state that any proposal to add a free-standing structure that would result in additional wastewater flows must be considered a “new” development. The proposed second dwelling unit would be a freestanding structure. As such, the project as a whole (the existing house and the second dwelling unit) must now be considered a “new” development to which the one-half acre minimum lot size requirement applies. Mr. & Mrs. Lenart’s lot is slightly less than one acre in size (2,280 sq. ft short) and, therefore, staff was required to deny the Lenart’s request for a clearance for the project.

The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property, which would result in substantial additional wastewater flows.

Staff believes that there are at least two factors that would support granting an exemption for this proposed project:

- The lot is very close to the required 1-acre minimum requirement (0.95 acres), and
- It is highly unlikely that the proposed 1-bedroom, 1-bath second dwelling unit will ever become a second single-family residence on the property.

**RECOMMENDATION:**

Approve Mr. & Mrs. Lenart’s request for an exemption from the minimum lot size requirements.